

JAN 30 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

BONNIE G. SNAVELY,

Plaintiff - Appellant,

v.

DOUGLAS E. MILLER, YELLOW
STONE FLY "YELLOW STONE," LLC,

Debtors - Appellees,

OFFICE OF THE U.S. TRUSTEE, U.S.
TRUSTEE'S OFFICE,

Trustee - Appellee.

No. 04-35814

D.C. No. CV 04-02-DWM

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Argued and Submitted January 10, 2006
Portland, Oregon

Before: KLEINFELD and GRABER, Circuit Judges, and RAFEEDIE^{**}, District
Judge.

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The Honorable Edward Rafeedie, Senior United States District Judge
for the Central District of California, sitting by designation.

Bonnie G. Snively appeals the bankruptcy court's order that enjoins her from pursuing state law easement claims against Douglas Miller and his successor in interest, Yellow Stone Fly "Yellow Stone", LLC, and awards sanctions against her for bringing such claims. The district court affirmed the bankruptcy court. We affirm in part and dismiss in part.

The bankruptcy court ordered that Snively dismiss with prejudice her state law easement claims within ten days of the order. Rather than appeal the order, she complied.

Under Montana law, a dismissal with prejudice has full res judicata effect, and a party cannot later bring the same cause of action.¹ Even if the bankruptcy court's order were reversed, this court would have no authority to order the Montana court to allow Snively to re-file. Accordingly, the appeal of the bankruptcy court's injunction must be dismissed as moot.²

¹First Call, Inc. v. Capital Answering Serv., Inc., 898 P.2d 96 (Mont. 1995); State ex rel. City of Havre v. Dist. Court of 12th Judicial Dist., 609 P.2d 275, 278 (Mont. 1980), overruled on other grounds by Cantrell v. Henderson, 718 P.2d 318, 320-21 (Mont. 1986).

²See Foster v. Carson, 347 F.3d 742, 745 (9th Cir. 2003) (describing the doctrine of mootness).

The award of sanctions was not an abuse of discretion because the Bankruptcy Court found bad faith and abusive litigation tactics on the part of Snavelly, and it is within the inherent power of the bankruptcy court to sanction such tactics.³ We therefore affirm the award of sanctions.

AFFIRMED as to sanctions; otherwise DISMISSED. Costs on appeal awarded against Appellant.

³Knupfer v. Lindblade (In re Dyer), 322 F.3d 1178, 1196 (9th Cir. 2003).